

Top Ten Teaming Agreement Tips

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A good teaming agreement generally covers many areas including the protection of confidentiality and data, the exclusivity of the subcontractor to the team, the subcontractor's participation in negotiations with the government, and the prime's obligation to give a subcontract to each of its team members and compensation. Although most teaming agreements are standard, a simple review should ensure that they include the following:

1. Mutual confidentiality and nondisclosure obligations between each party before exchanging any proprietary data such as technology, rates or know-how and survival of confidentiality obligations beyond termination and/or expiration of the agreement;
2. Representations regarding the team members' exclusive or nonexclusive involvement with the team;
3. Mutual indemnification for all direct, incidental and consequential costs arising from any defective cost or pricing issues which may arise from the provision by either party of cost and pricing data for use in the proposal;
4. Representations regarding other team member's resources, performance history and any Organizational Conflicts of Interest which may surface;
5. Acknowledgement and understanding regarding ownership of intellectual property arising under the performance of the prime contract;
6. Clear limitations on assignability of the obligations under the Teaming Agreement;
7. Express acknowledgment that the parties are not in a joint venture;
8. No hire clauses which prevent either party from hiring the other's employees for a limited period after termination of the teaming agreement and/or prime contract award;
9. A clearly defined scope of effort which will be given to each team member should the award be made to the prime contractor expressed in terms such as scope of responsibility, percentages, rates or other means; and
10. Agreement that a subcontract will be entered into in the event the prime contractor is awarded the contract which will be at least as inclusive as the teaming agreement and no greater than the responsibilities which the prime contractor receives from the Government.